

0LL 85-1630

Office of Legislative Liaison**Routing Slip**

TO:

	ACTION	INFO
1. D/OLL		X
2. DD/OLL		X
3. Admin Officer		
4. Liaison WALLACE		X
5. Legislation	X	
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SUSPENSE

~~28 JUNE 85~~
Date

Action Officer:

Remarks:

ECF 13 JUNE 85
Name/Date



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503
June 11, 1985

LEGISLATIVE LIAISON

85 - 1630

LEGISLATIVE REFERRAL MEMORANDUM

SPECIAL
OLL FILE *Legislation*
Receipt # *Record*

TO:

Legislative Liaison Officer-
/Central Intelligence Agency
Department of the Treasury
Department of Defense
General Services Administration
National Security Council
Office of Personnel Management
Department of Justice
Department of Commerce

SUBJECT: State draft report on H.R. 1082 - "Omnibus Intelligence and Security Improvement Act."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than Friday, June 28, 1985.

Questions should be referred to SueThau/TraceyLawler (395-7300) the legislative analyst in this office.

Ronald K. Peterson
RONALD K. PETERSON FOR
Assistant Director for
Legislative Reference

Enclosures

cc: T. Treacy R. Greene M. Horowitz
R. Neely F. Seidl B. Blum
A. Curtis J. Barie J. McNicholas



Washington, D.C. 20520

Dear Mr. Chairman:

I am writing to provide the views of the Department of State on H.R. 1082, the "Omnibus Intelligence and Security Improvement Act", in response to your letter dated February 22, 1985 to Secretary Shultz. Only those provisions of the bill that we view as of direct relevance to this Department are addressed.

We are concerned about the consistency of section 304 of the bill with United States obligations under the Vienna Convention on Diplomatic Relations. Articles 26 of that Convention provides that a host country "shall ensure freedom of movement and travel...subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security." The history of this provision makes clear that the zones referred to were ones into which entry is proscribed generally, not just to foreign diplomats. Even were that not the case, the standards in this section, "concentration of high technology industry" and "any industry relating to militarily critical technologies", are not congruent with "national security." Governments whose diplomats were subject to travel controls under this section would have the right to impose reciprocal controls on US diplomats in their territory. This could significantly inhibit the ability of our missions overseas, particularly in smaller countries, to collect information and reports.

In addition, the term "foreign mission" as used in the Foreign Missions Act is broader than diplomatic and consular missions; it could include not only international organizations and member missions to such organizations to which we have certain obligations under headquarters agreements regarding access, but also such entities as state trading companies doing business in the US, the members of which have constitutional rights to travel and are not subject to being declared persona non grata--thus leaving no practical means of enforcing the travel restrictions.

The Honorable
Les Aspin,
Chairman,
Committee on Armed Services,
House of Representatives.

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In general, the approach in Title IV of the bill to create a new criminal offense applicable only to government employees who disclose classified information seems to oversimplify complex policy and technical issues. For example, should not defense contractors also be covered? Would it be more effective to strengthen administrative controls and our ability to take disciplinary action? We believe that legislation on this subject requires further study.

The provisions of Title V regarding the authority of executive agencies and military departments to administer polygraph examinations would have the effect of prohibiting even consensual use of the polygraph in the course of investigations of candidates for sensitive positions within the executive branch that are in national security related agencies which are not in "the Intelligence Community" or that do not necessarily entail "access to particularly sensitive classified information within special access programs created pursuant to Section 4.2(a) of Executive Order 12356." To address this problem, new Section 7365(3) might be modified to encompass all individuals who have or will have access to classified information.

The provisions of Title V regarding pre-publication review would prohibit Department of State pre-publication review programs which have been in effect since 1968 for employees on speeches and writings of official concern, and have worked well.

The Department of State opposes Title V in its present form.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to submission of this report.

With best wishes,

Sincerely,

William L. Ball, III
Assistant Secretary
Legislative and Intergovernmental Affairs